

Appl. No. 09/965,224
Amdt. Dated June 13, 2006
Reply to Office action of March 14, 2006

REMARKS/ARGUMENTS

Claims 1-57 are pending in the present application.

This Amendment is in response to the Office Action mailed March 14, 2006. In the Office Action, the Examiner rejected claims 1-3, 5, 6, 10, 11, 13, 20-22, 24, 25, 29, 30, 39, 40, 41, 43, 44, 48, and 49 under 35 U.S.C. §102(c); and claims 4, 7, 9, 12, 14-19, 23, 26-28, 31-38, 42, 45-47, and 50-57 under 35 U.S.C. §103(a). Reconsideration in light of the remarks made herein is respectfully requested.

Rejection Under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1-3, 5, 6, 10, 11, 13, 20-22, 24, 25, 29, 30, 39, 40, 41, 43, 44, 48, and 49 under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2002/0186867 issued to Gutta et al. ("Gutta"). Applicant respectfully traverses the rejection and contends that the Examiner has not met the burden of establishing a prima facie case of anticipation.

Applicant notes that the Examiner cite Ibrahim (U.S. Publication No. 2004/0268390A1) at the beginning, but all arguments seem to be based on Gutta. For this rejection, Applicant assumes that Gutta is the prior art reference.

Gutta discloses filtering of recommendations employing personal characteristics of users. A camera 120 captures images of a user 10 positioned in viewing region 20 (Gutta, paragraph [0025]). A filter provides recommendations for a user of a media system or device that takes into account one or more personal characteristics that are particular to the user (Gutta, paragraph [0011]). Substantially all of the processing by control unit 130 and processing relating to recommendations based on personal characteristics may be located in a remote location, such as a server (Gutta, paragraph [0037]). The user 10 may change the time interval for which programs are recommended (Gutta, paragraph [0032]). The data associating available programs with personal characteristics may be downloaded from a server via a modem or the Internet (Gutta, paragraph [0036]).

Gutta does not disclose, either expressly or inherently, at least one of: (1) a personalization engine to create personal preference information from a user regarding a content, the personal preference information being represented in a description compatible with a content

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analyzer in an edge server; and (2) a content scheduler coupled to the personalization engine to schedule delivery of the content from the edge server and uploading of the personal preference information to the edge server as recited in claim 1.

Gutta merely discloses a camera capturing images of a user (Gutta, paragraph [0025]), not creating personal preference information. Images of a user are related to personal characteristics (Gutta, paragraph [0015]), but not personal preference. Personal characteristics are those that directly characterize the user such as gender, age, ethnic background, etc... (Gutta, paragraph [0014]). In contrast, personal preferences include preferences regarding the content the user wishes to receive. The preferences may include favorite topics, news, sports news, stock market, etc... which do not directly characterize the user.

Furthermore, Gutta merely discloses the processing relating to recommendations based on personal characteristics may be located in a remote location, such as a server (Gutta, paragraph [0037]), not a content analyzer in an edge server. The filter uses the user characteristics with the filter database to provide recommendations of selection to the user (Gutta, paragraph [0015]). Gutta therefore teaches using user characteristics such as user's facial image to recommend selection of programs. Therefore, Gutta does not teach analyzing the content, but only teaches recommending the program. In contrast, the content analyzer analyzes the media content to extract a description compatible with personal preference information.

In addition, Gutta merely discloses the data associating available programs with personal characteristics may be downloaded from a server via a modem or the Internet (Gutta, paragraph [0036]), or the user may change the time interval for which programs are recommended (Gutta, paragraph [0032]). In other words, Gutta teaches that the user may set the time interval during which programs are available for recommendation. Since the programs are set and shown on the TV at a scheduled time, they cannot be scheduled for delivery to individual users. In contrast, as recited in claim 1, the content scheduler schedules delivery of content.

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Vergegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." Richardson v. Suzuki Motor

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Co., 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989). Since the Examiner failed to show that Gutta teaches or discloses any one of the above elements, the rejection under 35 U.S.C. §102 is improper.

Therefore, Applicant believes that independent claims 1, 10, 20, 29, 39, 48 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicant respectfully requests the rejection under 35 U.S.C. §102(e) be withdrawn.

Rejection Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 4, 12, 14-16, 18, 19, 23, 31-35, 38, 42, 50-54, 56 and 57 under 35 U.S.C. §103(a) as being unpatentable over Gutta in view of U.S. Publication No. 2004/0268390 issued to Ibrahim Sezan et al. ("Ibrahim Sezan"); claims 7, 26, 28, and 45 under 35 U.S.C. §103(a) as being unpatentable over Gutta in view of U.S. Publication No. 2002/0032772 issued to Olstad et al. ("Olstad"); claims 8, 9, 27, 46, and 47 under 35 U.S.C. §103(a) as being unpatentable over the combination of Gutta and Olstad and further in view of U.S. Patent No. 5,638,531 issued to Crump et al. ("Crump"); and claims 17, 36, 37, 55 under 35 U.S.C. §103(a) as being unpatentable over the combination of Ibrahim Sezan in view of U.S. Publication No. 2003/0093790 issued to Logan et al. ("Logan"). Applicant respectfully traverses the rejection and contends that the Examiner has not met the burden of establishing a *prima facie* case of obviousness.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP §2143, p. 2100-129 (8th Ed., Rev. 2, May 2004)*. Applicant respectfully contends that there is no suggestion or motivation to combine their teachings, and thus no *prima facie* case of obviousness has been established.

1. Claims 4, 12, 14-16, 18, 19, 23, 31-35, 38, 42, 50-54, 56 and 57:

Gutta discloses filtering of recommendations employing personal characteristics of users as discussed above.

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Ibrahim discloses an audiovisual information management system. A user description scheme 20 includes the user's personal preferences and information regarding the user's viewing history (Ibrahim, paragraph [0046]; Figure 1, element 20). A generation module 44 receives user information 48 including data for the user description scheme (Ibrahim, paragraph [0053]; Figure 2, elements 44 and 48). An audiovisual program analysis module 42 performs an analysis of the received program 38 to extract and provide program related information (descriptors) to the description scheme generation module 44 (Ibrahim, paragraph [0053]; Figure 2, elements 42).

Gutta and Ibrahim, taken alone or in combination, do not disclose or suggest, or render obvious, at least one of: (1) a personalization engine to create personal preference information from a user regarding a content, the personal preference information being represented in a description compatible with a content analyzer in an edge server; and (2) a content scheduler to schedule delivery of the content from the edge server and uploading of the personal preference information to the edge server, as recited in claim 1; (3) the metadata being one of a closed caption, a Resource Description Framework (RDF), motion picture expert group (MPEG)-7, TV-Anytime metadata, a Society of Motion Picture and Television Engineers (SMPTE) metadata dictionary, a Dublin Core descriptor, and an European Broadcasting Union (EBU) P/mcta, as recited in claim 4; (4) the media source being one of a Web content, a television broadcast, a media broadcast, a video program, an audio program, and an audio visual program, as recited from claim 12; (5) the assembly criterion being one of a semantic topic and a subscription level, as recited in claim 15; (6) the delivery information including at least a scheduled time, a quality of service information, and a transmission bandwidth, as recited in claim 16; (7) a metadata creator to create a metadata associated with the content, as recited in claim 18; and (8) a matcher to match the description with the personal preference information, as recited in claim 19.

Ibrahim merely discloses a user description scheme to include the user's personal preferences and user's viewing history. This is not the same as a personalization engine to create personal preference information in a description compatible with a content analyzer in an edge server. The user description scheme is provided to the analysis module 42 for selective analysis of the programs. The analysis module 42 and the description scheme generation module 44 are part of the audiovisual system 16. The system 16 is the audiovisual system located at the user's location to present to the user the content (Ibrahim, paragraph [0038]). It is not an edge server.

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Furthermore, Ibrahim merely discloses the usage preferences description may be used in cooperation with an MPEG-7 compliant data stream (Ibrahim, paragraph [0222]), not the metadata, associated with a content, being MPEG-7.

2. Claims 7, 26, 28, and 45:

Gutta discloses filtering of recommendations employing personal characteristics of users as discussed above.

Olstad discloses a method for searching and analysis information in data networks. A search index generated from a search cache is an index that can be utilized to build search engine services (Olstad, paragraph [0085]).

Gutta and Olstad, taken alone or in any combination, does not disclose, suggest, or render obvious, at least one of: (1) a personalization engine to create personal preference information from a user regarding a content, the personal preference information being represented in a description compatible with a content analyzer in an edge server as recited in claim 1; (2) a content scheduler to schedule delivery of the content from the edge server and uploading of the personal preference information to the edge server as recited in claim 1; (3) a retriever to retrieve the cache content; (4) an indexer to index the cache content; and (5) a distributor to distribute the retrieved cache content to a device as recited in claim 7.

First, Gutta does not disclose, suggest, or render obvious elements (1) and (2), as discussed in the § 102 rejection above. Accordingly, a combination of Gutta with any other reference for the § 103 rejection is improper.

Second, the Examiner states that Olstad discloses an indexer to index the cached content (Office Action, page 6). However, the Olstad cache content here refers to a search content which includes only requests, user information, result code for the web request, hash values for document content, document information, access statistics and databases of hosts or sites (Olstad, paragraphs [0051] to [0065]). These are not contents scheduled to be delivered to the user. Furthermore, Olstad does not disclose a distributor to distribute the retrieved cached content to a device.

3. Claims 8, 9, 27, 46, and 47:

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Gutta discloses filtering of recommendations employing personal characteristics of users as discussed above. Olstad discloses a method for searching and analysis information in data networks as discussed above.

Crump discloses a multiprocessor integrated circuit with video refresh logic employing instruction/data caching and associated timing synchronization. An address decoder of a cache always selects the current set as well as the next set to cache ahead (Crump, col. 15, lines 41-43).

Gutta, Olstad, and Crump, taken alone or in any combination, do not disclose, suggest, or render obvious at least a content manager to manage the cached content, the content manager further including (a) a decryptor to decrypt the cache content, and (b) an archiver to archive the cached content, as recited in claims 8, 27, and 46. There is no motivation to combine Gutta, Olstad, and Crump because none of them addresses the problem of personalized content delivery. There is no teaching or suggestion that a personalization engine or a content scheduler is present. Gutta, read as a whole, does not suggest the desirability of personalizing content delivery.

In the Office Action, the Examiner states that Crump discloses a cache decryptor/decoder (Office Action, page 8). Applicant respectfully disagrees. Crump merely discloses an address decoder to select the next set. An address decoder is not the same as a decryptor. The cache used in the Crump is the cache memory used in a multiprocessor system, not a cache used in communication networks to deliver contents. Furthermore, Crump does not disclose an archiver to archive the cached content.

4. Claims 17, 36, 37, and 55:

Ibrahim discloses an audiovisual information management system as discussed above.

Logan discloses an audio and video program recording, editing and playback systems using metadata. The available metadata may be used to subdivide the incoming broadcasts into segments (Logan, paragraph [0054]). Metadata that is used to parse incoming segments may be made available from the parser at the remote facility (Logan, paragraph [0059]).

Ibrahim and Logan, taken alone or in any combination, do not disclose, suggest, or render obvious at least a content analyzer including at least a parser to parse the metadata, as recited in claims 17, 36, 37, and 55. There is no motivation to combine Ibrahim and Logan because neither of them addresses the problem of personalized content delivery. There is no teaching or

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suggestion that a personalization engine or a content scheduler is present. Ibrahim, read as a whole, does not suggest the desirability of personalizing content delivery.

In the Office Action, the Examiner states that Logan discloses a parser to parse the metadata (Office Action, page 9). However, these are not metadata associated with the content scheduled to be delivered with personalized information. Claims should be interpreted consistently with the specification, which provides content for the proper construction of the claims because it explains the nature of the patentee's invention. See Renishaw P.L.C. v. Marposs Societa Per Azioni, 158 F.3d 1243 (Fed. Cir. 1998). Here, the term "metadata" should be interpreted to be associated with the content. See, for example, Specification, paragraphs [0034]-[0035].

When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to: (A) The claimed invention must be considered as a whole; (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and (D) Reasonable expectation of success is the standard with which obviousness is determined. Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986). "When determining the patentability of a claimed invention which combined two known elements, 'the question is whether there is something in the prior art as a whole suggest the desirability, and thus the obviousness, of making the combination.'" In re Beattie, Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 1462, 221 USPQ (BNA) 481, 488 (Fed. Cir. 1984). To defeat patentability based on obviousness, the suggestion to make the new product having the claimed characteristics must come from the prior art, not from the hindsight knowledge of the invention. Interconnect Planning Corp. v. Feil, 744 F.2d 1132, 1143, 227 USPQ (BNA) 543, 551 (Fed. Cir. 1985). To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the Examiner to show a motivation to combine the references that create the case of obviousness. In other words, the Examiner must show reasons that a skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the prior elements from the cited prior references for combination in the manner claimed. In re Rouffet, 149 F.3d 1350 (Fed. Cir. 1996), 47 USPQ 2d (BNA) 1453. "To

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support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or implicitly suggest the claimed invention or the Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." Ex parte Clapp, 227 USPQ 972, 973. (Bd.Pat.App.&Inter. 1985). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Furthermore, although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." In re Mills 916 F.2d at 682, 16 USPQ2d at 1432; In re Fitch, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992).

In the present invention, the cited references do not expressly or implicitly suggest at least one of the above elements. In addition, the Examiner failed to present a convincing line of reasoning as to why any combination of Gutta, Ibrahim, Olstad, Crump and Logan is an obvious application of personalized content delivery and media consumption.

Therefore, Applicant believes that independent claims 1, 10, 20, 29, 39, 48 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicant respectfully requests the rejections under 35 U.S.C. §102(e), and 35 U.S.C. §103(a) be withdrawn.

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Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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